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PTO/SB/33 (11-08)

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

915-014.005

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on February 17, 2009

Signature

Typed or printed name Kathleen Sipos

Application Number

10/820,432

Filed

April 7, 2004

First Named Inventor

Marko TORVINEN

Art Unit

2109

Examiner

Andrew TANK

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☐

attorney or agent of record.

Registration number \_\_\_\_\_

☒

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 58,051

Signature

Keith R. Obert

Typed or printed name

203-261-1234

Telephone number

February 17, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐

\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 915-014.005  
Serial No. 10/820,432

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

**Marko TORVINEN** : Confirmation No.: **7172**  
Serial No.: **10/820,432** : Examiner: **Andrew TANK**  
Filed: **April 7, 2004** : Group Art Unit: **2109**

For: **METHOD FOR THE PRESENTATION AND SELECTION OF DOCUMENT  
LINKS IN SMALL SCREEN ELECTRONIC DEVICES**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

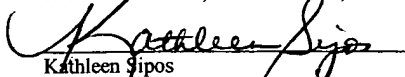
Sir:

In response to the final Office Action of December 10, 2008, please reconsider the rejections in view of the following remarks:

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CERTIFICATE OF MAILING

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Kathleen Sipos

Dated: February 17, 2009

**REMARKS**

Claims 1-12, 14-26, 28-40 and 42-45 were examined by the Office, and in the final Office Action of December 10, 2008 all claims are rejected. With this response no claims are amended, added or cancelled. Applicant respectfully submits that the Office has committed clear error in rejecting the claims, because the cited references fail to disclose or suggest all of the limitations recited in the claims. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

This response is submitted along with a Notice of Appeal.

**Claim Rejections Under § 103**

In section 4, on page 2 of the Office Action, claims 1-5, 8-12, 14-19, 22-26, 28-33, 36-40 and 42-45 are rejected under 35 U.S.C. § 103(a) as unpatentable over Schilit et al. (U.S. Patent No. 6,674,453) in view of “Sams Teach Yourself Microsoft Internet Explorer 5 in 10 Minutes,” by Jill T. Freeze (hereinafter Freeze), and in further view of Dutta et al. (U.S. Patent No. 6,717,600). Applicant respectfully submits that claim 1 is not disclosed or suggested by the cited references, alone or in combination, because the cited references fail to disclose or suggest all of the limitations recited in claim 1. The cited references at least fail to disclose or suggest determining the distance between a first point on the view window and a first link area comprising a plurality of links, and determining the distance between the first point and a second link area comprising a plurality of links. The cited references also fail to disclose or suggest determining whether the first link area or the second link area is nearest to the first point on said view window. Applicant respectfully submits that the cited references at least fail to disclose or suggest the limitations of claim 1 identified above.

On page 4 of the Office Action, the Office acknowledges that Freeze and Schilit fail to disclose determining the distance between a first point on a view window and a first link area comprising a plurality of links, determining the distance between the first point on said view window and a second link area comprising a plurality of links, determining whether the first link area or the second link area is nearest to the first point on the view window, and returning these links for use in a new link list, and relies upon Dutta for this teaching. The Office asserts that Dutta discloses that distances between the cursor and the object to select are determined, and selection is based on which is closer. Applicant respectfully disagrees that Dutta discloses

determining the distances between the cursor and the object to be selected as asserted by the Office.

The Office asserts on pages 4 and 10 of the Office Action, that Dutta discloses that a determination is made whether the cursor is in close proximity to a first link, if it is, a further determination is made whether any other links are close to the cursor, if not, then the first link is selected. However, the section of Dutta that the Office refers to (column 4, lines 46-65) merely relates to the use of an “active region” surrounding a cursor to make selections when the cursor is within a certain proximity to a selectable item. The “certain proximity” referred to in Dutta is based on whether any portion of the active region intersects with a selectable item. See Dutta column 4, lines 55-56. In contrast to claim 1, this determination discussed in Dutta is not based on the distances between the active region or cursor and the selectable item, but merely based on whether the active region intersects the selectable item, and therefore no determination is made as to the distance of the active region from the selectable item. Therefore, contrary to the assertions of the Office no determination is made whether any other links are close to the cursor.

Instead, Dutta discloses that as long as a portion of the active region intersects with only one selectable item, then the selectable item can be selected. See Dutta column 4, lines 8-11. If the active region intersects with more than one selectable item, then the active region becomes inactive and no selected input will be recognized. See Dutta column 4, lines 12-16. However, Dutta at most discloses determining whether more than one selectable item is covered by the active region, and makes no mention of determining the distances between the selectable items in order to determine which selectable item is closer to the active region. Instead, the proximity selection referred to in Dutta only relates to whether the active region is over a selectable item, and has nothing to do with determination of distances nor determining which selectable item is closer, as recited in claim 1. In fact, Dutta teaches away from making a determination as to which selectable item is closer to the active region, because Dutta teaches that when more than one selectable item is covered by the active region, the active region becomes inactive and no selection can be made. Therefore, for at least this reason claim 1 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 1.

Furthermore the Office states in section 7, on page 10 of the Office Action that a reference is relevant for all it contains. Therefore, applicant will address the other sections of

Dutta, and show that they also do not disclose or suggest the limitations recited in claim 1. For example, Dutta only discloses that focus is changed to an item if a cursor moves toward it, and the direction of movement of the cursor predicts the item the user is moving towards. See Dutta Abstract. Therefore, the prediction of which item may be selected is based on the direction of movement, and is entirely independent of how close the items may or may not be to the cursor. Since the prediction is based on the movement direction of the cursor, Dutta does not disclose or suggest determining the distances between the cursor and the object to select. See Dutta column 5, line 67—column 6, line 3 (the focus of a given selectable item is changed if a cursor moves in a direction towards the selectable item).

As shown in Figure 7 of Dutta, if cursor (700) is moved in a direction indicated by path (720) the focus of item (758) would change, and item (758) would be selected if an input selection were to be received anywhere along path (720). In contrast to claim 1, the direction of movement of the cursor determines the selectable item that the user is moving towards, and Dutta does not disclose or suggest determining the distances between the cursor and the selectable item. See Dutta column 6, lines 11-13. Even in a situation in which the cursor moved along path (730), and no input selection were received after a predetermined distance or time, Dutta still fails to disclose or suggest determining the distance between a first point on the view window and a first link area comprising a plurality of links, and determining the distance between the first point and a second link area comprising a plurality of links, because focus is only shifted to objects along the path (730) regardless of whether other objects may be closer. Therefore, for at least the reasons discussed above Dutta fails to make up for the deficiencies in the teachings of Freeze and Schilit identified by the Office, and the cited references, alone or in combination, fail to disclose or suggest all of the limitations recited in claim 1.

Independent claims 15 and 29 are rejected for the same reasons as claim 1, and contain limitations similar to those recited in claim 1. Therefore, for at least the reasons discussed above in relation to claim 1, claims 15 and 29 are not disclosed or suggested by the cited references.

Claims 2-5, 8-14, 16-19, 22-28, 30-33 and 36-45 all ultimately depend from an independent claim, and are not disclosed or suggested by the cited references at least in view of their dependencies.

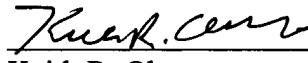
In section 5, on page 8 of the Office Action, claims 6-7, 20-21 and 34-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schilit, Freeze and Dutta, and in further view of "Microsoft Windows XP Unleashed," by Terry W. Ogletree (hereinafter Ogletree). Claims 6-7, 20-21 and 34-35 all ultimately depend from an independent claim, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

#### Conclusion

For at least the foregoing reasons applicant respectfully submits that the present application is in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 17 February 2009

  
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